

Inquiry into Elder Abuse in Queensland

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| Submission No: | 91 |
| Submitted by: | Australian Human Rights Commission |
| Publication: | Making the submission and your name public |
| Attachments: | See attachment |
| Submitter Comments: | |



10 April 2025

Education, Arts and Communities Committee
Parliament House
George Street
Brisbane QLD 4001

Dear Committee Secretariat

Submission to inquiry into elder abuse in Queensland

The Australian Human Rights Commission (the Commission) welcomes the opportunity to make this submission to the Education, Arts and Communities Committee's (the Committee) inquiry into Elder Abuse in Queensland (the Inquiry).

The Commission is Australia's National Human Rights Institution, whose purpose is to provide independent and impartial services to promote and protect human rights in Australia. The Commission undertakes a range of policy development and research tasks that aim to promote compliance with Australia's human rights obligations, while also investigating and conciliating complaints of unlawful discrimination and breaches of human rights.

Enhancing the rights of older people to live free from abuse and mistreatment is one of my key priority areas as Age Discrimination Commissioner.

The Commission makes the following recommendations with respect to the Inquiry:

Recommendation 1: The Queensland Government should introduce adult safeguarding laws and establish an independent statutory body to administer adult safeguarding functions.

The Commission supports the Queensland Public Advocate's work on adult safeguarding and in particular the recommendations made in Volume 2, which

refer to the establishment, through legislation underpinned by human rights principles, of an adult safeguarding agency in QLD which has the power to investigate the situation of any at-risk adult (Recommendations 1 and 2) and the organisation of a public awareness campaign to accompany the establishment of an adult safeguarding agency (Recommendation 4).¹

Adult safeguarding laws and agencies, such as those that currently exist in NSW, SA and ACT, play an important role in receiving, assessing and investigating reports of suspected abuse as well as in coordinating responses and supportive interventions to assist at-risk adults. The introduction of adult safeguarding laws in Queensland and establishment of a dedicated adult safeguarding agency would fill a critical gap in Queensland's current elder abuse reporting and response regime.

It will be important for the Queensland Government to ensure that any established agency is empowered and appropriately resourced to investigate and respond to reports of abuse effectively and efficiently.

More broadly, the Commission is of the view that a National Adult Safeguarding Framework should be developed and that adult safeguarding laws and bodies should be established in all states and territories. This would be in line with recommendations 11.1 and 11.2 from the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) and recommendation 14-1 from the Australian Law Reform Commission's 2017 report *Elder Abuse – A National Legal Response*.²

Recommendation 2: The Queensland Government should require retirement village operators to develop and implement elder abuse prevention strategies under the Retirement Villages Act 1999 (QLD)

Additionally, the Commission urges the Queensland Government to take urgent action and require, under the Retirement Villages Act 1999 (QLD), that retirement village operators put in place clear and accessible elder abuse prevention strategies to protect older Australians from abuse.

Elder abuse affects one in six older Australians, including those living in retirement villages.³ According to a 2023 study by the NSW Retirement Villages Residents Association, the most common form of abuse in retirement villages is resident-on-resident.⁴ Elder abuse prevention strategies are currently mandated

in NSW, where operators are required to develop and implement strategies that support staff and residents to better identify and respond to the abuse of older persons living in retirement villages.⁵

As Australia's ageing population increases, we will likely see significant increases in the number of Australians who will enter retirement living and also in rates of abuse. It is critical that elder abuse prevention strategies are mandated in all states and territories, including Queensland, to ensure residents feel safe and are safeguarded from abuse in retirement living settings.

Recommendation 3: The Queensland Government should support the adoption of a National Supported Decision-Making Framework

The Commission commends the strong steps Queensland has taken towards embedding supported decision-making in Queensland's regulatory frameworks including the Office of the Public Advocate's policy regarding *Structured Decision-Making Framework*, the amendments to the *Guardianship and Administration Act 2000* (QLD) and the 2016 report tabled in Queensland Parliament.⁶

The Commission urges the Queensland Government to continue to set the example for other states and territories by taking the lead in supporting the development of a broader National Supported Decision-Making Framework and the adoption of uniform principles to guide decision-making. This would be in line with recommendations made by the Disability Royal Commission and the Australian Law Reform Commission's 2014 report on *Equality, Capacity and Disability in Commonwealth Laws*.⁷

Recommendation 4: The Queensland Government should take urgent steps towards achieving national consistency in Enduring Power of Attorney (EPOA) legislation and improving whole of community awareness about EPOAs

The Commission's 2024 report, *Empowering futures: A national survey on the understanding and use of financial enduring powers of attorney*, found concerning critical gaps in Australians' knowledge and understanding of their rights and obligations under EPOAs, which can contribute to an increased risk of elder abuse. The overwhelming majority of Australians (85%) agreed that more education was needed on these documents and having information that is standardised across the entire country was identified as a top need (93%).⁸

It is clear from the research that national consistency in EPOA laws followed by the establishment of a national register as recommended by the 2017 Australian Law Reform Commission report *Elder Abuse – A National Legal Response*, is urgently needed to reduce complexity and confusion in the Australian community and enable national standardised education to mitigate the risks of financial abuse.⁹

Australia's population is ageing and becoming more mobile, with Queensland recording the highest number of people moving interstate between 2016 and 2021.¹⁰ This mobility means that at different points in time, a principal or their appointed decision-makers may live in another state or territory from themselves. It is no longer viable or justifiable for states and territories to resist change to their own EPOA models when the evidence over the last two decades has clearly shown the need to reduce complexity across jurisdictions and adopt a more holistic nationally consistent approach to EPOA arrangements.

The Queensland Government and other states and territory government must act now and be prepared to compromise on existing arrangements to protect older Australians from abuse arising from EPOA misuse now and into the future.

For further information, I draw your attention to the Commission's submission to the consultation of the draft National Plan to End the Abuse and Mistreatment of Older Persons 2024-2034.¹¹

The Commission is happy to provide further assistance to the Committee in its consideration of this Inquiry.

Yours sincerely



Robert Fitzgerald AM
Age Discrimination Commissioner

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¹ The Public Advocate, *Adult Safeguarding in Queensland Volume 1. Identifying the gaps* (July 2022) <https://www.justice.qld.gov.au/__data/assets/pdf_file/0011/726599/202207-adult-safeguarding-issues-paper-volume-one-final-.pdf> and The Public Advocate, *Adult Safeguarding in Queensland Volume 2. Reform recommendations* (November 2022) <https://www.justice.qld.gov.au/__data/assets/pdf_file/0011/749027/adult-safeguarding-vol-2-final.pdf>.

² Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability *Final Report – Volume 11* (September 2023) rec 11.1 and 11.2 and Australian Law Reform Commission, *Elder Abuse – A National Legal Response* (Final Report 131, May 2017) rec 14-1.

³ Australian Institute of Family Studies, *National Elder Abuse Prevalence Study: Final Report* (July 2021) p 155 <https://aifs.gov.au/sites/default/files/publication-documents/2021_national_elder_abuse_prevalence_study_final_report_0.pdf>.

⁴ Retirement Village Residents Association, *Ageing Without Fear Survey Report* (June 2023) p 17.

⁵ *Retirement Villages Regulation 2017* (NSW) sch 3A cl 10.

⁶ Office of the Public Advocate (QLD), *Structured Decision-Making Framework* (2023) <https://www.publicguardian.qld.gov.au/__data/assets/pdf_file/0008/574721/Structured-Decision-Making-Framework.pdf>; *Guardianship and Administration Act 2000* (QLD) and Office of the Public Advocate (QLD), *Decision-making support and Queensland's guardianship system* (April 2016) <https://www.justice.qld.gov.au/__data/assets/pdf_file/0011/699023/opa-dms-systemic-advocacy-report-final.pdf>.

⁷ Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws* (Final Report 124, August 2014) <<https://disability.royalcommission.gov.au/publications/final-report>> and Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Enabling Access and Autonomy* (Final Report September 2023) rec 6.6.

⁸ Australian Human Rights Commission, *Empowering futures: A national survey on the understanding and use of financial enduring powers of attorney* (2024) <<https://humanrights.gov.au/our-work/age-discrimination/publications/empowering-futures-report-enduring-powers-attorney-2024>>.

⁹ Australian Law Reform Commission, *Elder Abuse – A National Legal Response* (Final Report 131, May 2017) rec 14-1 and 14-2, <https://www.alrc.gov.au/publication/elder-abuse-a-national-legal-response-alrc-report-131/9->.

¹⁰ Australian Bureau of Statistics, 'Population movement in Australia: Information on internal migration based on place of usual residence five years before, one year before and on 2021 Census Night' (ABS website, 8 November 2021), accessed 16 November

2023, <https://www.abs.gov.au/census/guide-census-data/census-dictionary/2021/variables-topic/location>.

¹¹ Australian Human Rights Commission, *Consultation draft of the National Plan to End the Abuse and Mistreatment of Older People (2024-2034)* (Submission, 2025)
<<https://humanrights.gov.au/our-work/legal/submission/consultation-draft-national-plan-end-abuse-and-mistreatment-older-people>>.